

SENATE BILL REPORT

SB 6281

As Reported by Senate Committee On:
Commerce & Labor, January 27, 2016

Title: An act relating to athlete agents.

Brief Description: Enacting amendments to the uniform athlete agents act.

Sponsors: Senators Fain, Pedersen, Baumgartner and Frockt; by request of Uniform Law Commission.

Brief History:

Committee Activity: Commerce & Labor: 1/20/16, 1/27/16 [DPS].

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: That Substitute Senate Bill No. 6281 be substituted therefor, and the substitute bill do pass.

Signed by Senators Baumgartner, Chair; Braun, Vice Chair; Hasegawa, Ranking Minority Member; Conway, Keiser, King and Warnick.

Staff: Susan Jones (786-7404)

Background: Uniform Athlete Agent Act. In 2000, the National Conference of Commissioners on Uniform State Laws drafted the Uniform Athlete Agents Act (UAAA). UAAA, which has been enacted in 42 states, governs relationships among student athletes, athlete agents, and educational institutions. It protects the interests of student athletes and academic institutions by regulating the activities of athlete agents.

Washington Uniform Athlete Agent Act. In 2002, the Washington Uniform Athlete Agents Act (WUAAA) was enacted. The WUAAA was based on the Uniform Athlete Agents Act drafted by the National Conference of Commissioners on Uniform State Laws in 2000. However, the UAAA has provisions requiring the registration of athlete agents while the WUAAA does not.

Disclosure to the Athlete. Under WUAAA, if an agent initiates contact with a college athlete, the agent must provide the athlete with a disclosure form within seven days. The disclosure form must include information about the agent's business operations, including any disciplinary sanctions that have been imposed upon the agent. If an athlete is not provided

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with this disclosure form within seven days, any contract signed by the athlete is null and void.

Agent Athlete Contracts. Agents must provide student athletes with a contract. Required elements of the contract are specified, including a description of any expenses the student athlete agrees to pay and a disclaimer that athletes may lose their eligibility to compete as students if they sign the contract. A student athlete may cancel a contract within 14 days after the contract has been signed. Agents must retain records of their business practices for five years.

Notice to the Educational Institution. At least 72 hours prior to signing a contract, and within 72 hours after signing a contract, both the student athlete and the agent must notify the athletic director of the student's educational institution, and must provide the athletic director with a copy of the agent's disclosure form.

Prohibited Individuals and Criminal and Civil Penalties. No person can be an agent in this state if the person has been convicted of a felony or other crime involving moral turpitude, the person's license has been suspended by another state, or if the person's behavior has resulted in sanctions to an athlete or an educational institution. Prohibited acts under the WUAAA are class C felonies and are also punishable by a civil penalty of up to \$10,000. An educational institution has a right of action against an athlete agent or a former student athlete if the institution is damaged by the agent or athlete's conduct. Damage includes being penalized or suspended from participation in athletics by a national athletic association or conference as a result of the agent or athlete's actions.

Other Provisions. Family members of the athlete or agents acting solely on the behalf of a professional sports organization are not considered to be agents.

Revised Uniform Athlete Agent Act. In 2015, the National Conference of Commissioners on Uniform State Laws revised the UAAA to the Revised Uniform Athlete Agent Act (RUAAA). The RUAAA makes numerous changes to the original act, including expanding the definition of "athlete agent" and "student athlete;" providing for reciprocal registration between states; adding new requirements to the signing of an agency contract; and expanding notification requirements.

Summary of Bill (Recommended Substitute): Definitions. The definition of athlete agent is expanded but does not include an individual who:

1. acts solely on behalf of a professional sports team or organization; or
2. is a licensed, registered, or certified professional and offers or provides services to a student athlete customarily provided by members of the profession, unless the individual:
 - a. also recruits or solicits the athlete to enter into an agency contract;
 - b. also, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment as a professional athlete or member of a professional sports team or organization; or
 - c. receives consideration for providing the services calculated using a different method than for an individual who is not a student athlete.

Other definitions are added.

Disclosures. Additional items are required in the disclosure form, including telephone numbers, email addresses, web sites, social media accounts, information about affiliated persons, certain civil proceedings, and registration and certification in other states or professional leagues or associations.

Prohibited Individuals and Agency Contracts. Provisions are expanded prohibiting persons from engaging as an athlete agent with respect to crimes and when an agent is refused registration renewal in other states. Additional information is required in an agency contract and a warning to the student athletes.

Minors. When a student athlete is a minor, information and notices must be given to the parent or guardian and the contract must be signed by the parent or guardian.

Required Notices. Notices required to be given to an athletic director are required not later than 72 hours prior to signing a contract and again not later than 72 hours after entering into the contract, or before the student's next scheduled athletic event, whichever is earlier, and after enrollment in an educational institution if the contract is signed before enrollment. Additional notices are required when an athletic scholarship is involved and before certain communication with the student athlete.

Reporting of Violations. An educational institution that becomes aware of an agent's violation of the WUAAA must notify any professional league or players association with which the institution is aware the agent is licensed or registered of the existence of the violation.

Right to Action for Damages and Consumer Protection Act. An educational institution or a student athlete may bring an action for actual damages and attorneys' fees and costs. Violations are considered Consumer Protection Act violations.

Provisions regarding prohibited acts are expanded and other technical changes are made.

EFFECT OF CHANGES MADE BY COMMERCE & LABOR COMMITTEE (Recommended Substitute): The current statutory requirement that the agent and athlete give the athletic director notice at least 72 hours before entering into an agency contract is not eliminated.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This is an update to Washington's Uniform Athlete Agent's Act. It provides for a modernized and broader

definition of athlete agent that includes a number of activities that have typically developed. It provides that the athlete has to be notified for the possibility of loss of eligibility from entering the contract. It also provides that there has to be notice to the institution where the student athlete is enrolled. It provides a right of action for student athletes if an agent has violated the act. The original bill that Washington adopted about 14 years ago passed on a bipartisan unanimous basis. There is a group of very reputable people who represent promising athletes who have potential professional careers and are very careful about how they go about working with those students. Then there are some people who are less careful. The point of this bill is to make sure that the folks who are representing the student athlete in their potential professional careers are above board and to make sure the students are aware of the consequences of the loss of their eligibility to compete in NCAA sports. This is principally about students who are considering getting agents engaged to help them shop themselves to become professional.

OTHER: WSU and UW have reviewed the bill have a couple of comments. This bill overall is an improvement and the draft is supported. There are two notes. First, there is a request for restoration of the provision requiring prior notice when an athlete is engaging an agent. The second note is that this is a rapidly evolving field. Last week, the NCAA took some turns and directions in some regulatory areas that they had just changed last year. This may be an area that needs to be revisited but the underlying bill is a step forward in clarifying the regulatory statute on athlete agents.

Persons Testifying on Original Bill: PRO: Senator Jamie Pedersen.

OTHER: Chris Mulick, Washington State University; Genesee Adkins, University of Washington; John Lucier, Washington State University.

Persons Signed In To Testify But Not Testifying: No one.